

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JACQUELINE SMITH and DEPARTMENT OF THE NAVY,  
HUMAN RESOURCES OFFICE, New Orleans, La.

*Docket No. 97-1640; Submitted on the Record;  
Issued June 17, 1999*

---

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a recurrence of disability causally related to her January 25, 1994 employment injury.

The Board has duly reviewed the decision of the Office of Workers' Compensation Programs hearing representative dated March 19, 1996 and finds that the decision is in accordance with the facts and law of this case. Essentially, the Office has accepted that appellant sustained a thoracic strain on January 25, 1994 while lifting a coworker during a training exercise. Appellant has alleged that she also sustained a fracture of T9 and a low back condition as a result of the January 25, 1994 injury which became evident during physical therapy she received for the accepted condition. The hearing representative properly noted in his decision that appellant had not submitted the rationalized medical evidence necessary to establish that her T9 fracture and low back conditions were causally related to the accepted injury. The hearing representative noted that there was some medical evidence of record that appellant had preexisting and degenerative conditions of the spine which were not causally related to the employment injury.

A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the condition or disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.<sup>1</sup> The Board affirms the decision of the Office hearing representative dated March 19, 1996 that appellant has not submitted the rationalized medical

---

<sup>1</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

evidence necessary to establish that any condition other than thoracic sprain is causally related to the accepted employment injury.

On September 21, 1996 appellant requested that the Office reconsider her case. The Office denied modification of its prior decision, after merit review, on January 9, 1997.

In support of her request for reconsideration appellant submitted a report from her treating physician, Dr. O. Scott Swayze dated May 10, 1996. While he did attempt to causally relate appellant's thoracic fracture and low back pain to her employment injury, his report still lacked the necessary medical rationale. In his report Dr. Swayze stated that appellant's initial computerized tomography (CT) scan of the thoracic spine, which was ordered by his partner Dr. Frank McKinnon in May 1994, showed some questionable chronic changes of appellant's thoracic spine. Dr. Swayze stated that he felt that these changes can occur over a four-month delay and the CT scan was performed some three and a half months after the employment injury. Dr. Swayze concluded "I think this is enough time to give the radiographic appearance as seen in the CT scan." He did not discuss however, Dr. McKinnon's earlier findings in February 1994, wherein he noted that he had reviewed x-rays first taken in 1986 and then in 1994 of appellant's chest area, which lateral views showed a compression of the ninth thoracic vertebra and osteoporosis. Dr. Swayze's opinion regarding causal relationship is based upon his conclusion that the chronic findings on the CT scan in May 1994 developed subsequent to January 25, 1994. He did not explain why the changes noted by Dr. McKinnon were already seen on x-ray in February 1994. Dr. Swayze's opinion regarding the development of appellant's chronic thoracic condition during a three and a half month period after January 25, 1994 is not based upon a proper factual background and is therefore of diminished probative value. He also stated that appellant began to have lower back pain while in physical therapy for her compression fracture. Dr. Swayze stated that this also should be related to her on-the-job injury of January 1994 and that the epidural injections she received were in treatment for injuries she sustained on January 25, 1994. He did not provide any medical rationale to explain how pathophysiologically the January 25, 1994 injury to appellant's thoracic spine would have also caused the diagnosed low back conditions. As such, Dr. Swayze's opinion lacks the necessary medical rationale and is of limited probative medical value.

The decision of the Office of Workers' Compensation Programs dated January 9, 1997 is hereby affirmed.

Dated, Washington, D.C.  
June 17, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member